



## CITY OF PULLMAN

*HIGH Tech, HIGHER Education, HIGHEST Quality of Life*

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April 21, 2009

Municipal Permit Comments  
Washington State Department of Ecology  
P.O. Box 47600  
Olympia, WA 98504-7600

Dear Department of Ecology:

I am sending these comments on the Phase II Eastern Washington Municipal Stormwater Permits in response to the March 18, 2009, invitation to submit comments from Bill Moore, P.E. Manager, Program Development Services Section, Water Quality Program. I also intend to attend and testify at your workshop and public hearing in Moses Lake on April 22.

First I would like to express my sincere appreciation to all the Department of Ecology officials who have taken the time to speak with us by phone or in person to listen to our concerns. We also commend the Department of Ecology for sending representatives to Pullman to participate in our City Council meetings and public forums on stormwater. My comments will focus briefly on an overview of a few of the points we have made regarding the Phase II Stormwater Permit requirements for Pullman and then will address the relief that we are seeking.

The city of Pullman has expressed its concerns regarding the Phase II Permit requirements in a timely manner. During the comment period that ended on May 19, 2006, we officially requested that Pullman not be included in the Phase II Permit. The letter stated the following with respect to our unique conditions:

Pullman and the surrounding area are characterized by rolling hills, steep slopes and highly erodible soils. The relative impermeability of the soil virtually eliminates the use of infiltration for stormwater treatment, which results in close to 100% runoff.

This unique condition has not been disputed by the Department of Ecology. As a matter of fact, at the City Council meeting on September 26, 2006, a Department of Ecology Water Quality Program representative, David Duncan, stated on the record that "Pullman has perhaps the most difficult situation in the whole state with regards to soils."

On March 6, 2007, the City Council passed a resolution authorizing the city of Pullman to join a coalition of 33 cities and counties for the purpose of appealing

provisions of the Municipal Stormwater Permit. It was noted at the meeting that it was the opinion of many of the affected cities that the Department of Ecology had exceeded the requirements of the Clean Water Act to the extent that significant and unwarranted financial burdens will be placed on these municipalities and the citizens residing therein. In summary, the city of Pullman did timely file its official request not to be included under the Phase II Stormwater Permit as well as its appeal of its inclusion under the permit.

The following paragraphs are a small sampling of the numerous contacts we have had with Department of Ecology officials to express our concerns about the impact of the Phase II Stormwater Permit regulations on Pullman. City of Pullman officials have also made extensive contacts with state elected officials including the Governor and our 9<sup>th</sup> District state legislators.

On June 17, 2008, representatives of the city of Pullman and the Pullman Chamber of Commerce met with David Knight, Unit Supervisor of the Water Quality Program of the Department of Ecology and Michele Vazquez, Regulatory Assistance Lead for the Eastern Region of the Governor's Office of Regulatory Assistance, to discuss our concerns for having reasonable and attainable stormwater requirements for Pullman.

On February 18, 2009, representatives of the city of Pullman met with Department of Ecology officials in Olympia to discuss the Phase II Stormwater Permit. Representatives from the Department of Ecology who attended the meeting were Harriet Beale, Municipal Stormwater Technology Specialist; Melodie Selby, P.E. Water Quality Program; Ted Sturdevant, Director Governmental Relations; and Kelly Susewind, Program Manager, Water Quality Program. We appreciated greatly the opportunity to meet with Department of Ecology officials and Keith Phillips, Executive Policy Director to the Governor on Environmental Issues, to discuss our concerns about the Phase II Stormwater Permit and to seek relief from the permit requirements. Part of the discussion focused on a delay in certain timelines under the permit due to the severe economic conditions.

On March 12, 2009, a meeting was held in Pullman with representatives from WSU, the city of Pullman, and the Department of Ecology. Harriet Beale, Municipal Stormwater Permit Lead, and David Knight, Watershed TMDL Unit Supervisor, represented the Department of Ecology. Both the city and WSU requested financial relief from the costly requirements of the Phase II stormwater permit. Both city of Pullman and WSU officials requested a two-year delay in further implementation of the permit. They pledged to continue present levels of effort if the two-year delay were to be granted. The city also agreed to recommend a two-year suspension in stormwater utility charges that would coincide with the two-year deferral by the Department of Ecology.

On April 7, 2009, the Washington State House of Representatives Ways and Means Committee unanimously passed a budget proviso that stated, "The department shall delay compliance requirements for the National Pollution Discharge Elimination

System (NPDES) Phase II Permit schedule for the city of Pullman until the next scheduled permit reissuance in 2012.” The budget proviso was sponsored by 9<sup>th</sup> District State Representative Joe Schmick and 17<sup>th</sup> Legislative District State Representative Deb Wallace.

On April 8, 2009, city of Pullman and WSU representatives participated in a conference call with WSU President Elson S. Floyd, Department of Ecology Director Jay Manning and key members of his staff. WSU and city of Pullman representatives stated the reasons they objected to their inclusion under the Phase II Stormwater Permit and why they were seeking a two-year delay in the permit. Ecology Director Jay Manning stated that neither the Department of Ecology nor the Environmental Protection Agency would remove Pullman from the Phase II Permit. The city of Pullman and WSU had requested removal because neither neighboring Oregon nor Idaho had included all of their bubble cities under the Phase II requirements. We felt this was clear evidence that Ecology had gone beyond the requirements of the Clean Water Act by including Pullman which has no possibility of ever having salmon or shellfish. Additionally, we noted that the draft TMDL for the South Fork of the Palouse River and its tributaries that flow through Pullman contain the following language on Page 16:

The recreational use for the SF Palouse River and tributaries is designated as *Primary Contact* use. The *Primary Contact* use is intended for waters “where a person would have direct contact with water to the point of complete submergence including, but not limited to, skin diving, swimming, and waterskiing.”

Skin diving, swimming, and waterskiing are about as likely to occur in the South Fork of the Palouse and its tributaries as is salmon spawning or shellfish protection. To then state within the draft TMDL that “even shallow waters may warrant primary contact protection” is tantamount to saying all waters should have Phase II protection. Furthermore, such a statement runs directly counter to what the TMDL designation of *Primary Contact* is intended for. To say that *Primary Contact* is intended for waters with activities like skin diving, swimming, and waterskiing” and then to say that it applies to any shallow water is contradictory.

We also noted that TMDL samplings showed decreased problems downriver from Pullman in the following language on page 86 of the draft TMDL:

In comparison to the upriver portions of the SF Palouse, most of the lower portion of the SF Palouse had fewer water quality standards violations and generally decreased FC bacteria counts.

We also noted that even if you kept Pullman under the Phase II requirements, it would make little difference within a few miles further downriver because of the influence of the city of Colfax. Page 86 the draft TMDL states:

The bacteria counts within the city of Colfax were very high during both the dry and wet seasons.

In summary we emphasized that Ecology was not forced to include Pullman as a Phase II Permit city because of the Federal Clean Water Act, but rather chose to include all of its bubble cities even though neighboring Oregon and Idaho did not. Secondly, we do not have migratory fish or shellfish, nor do we have the recreational water uses cited within the draft TMDL under the definition of *Primary Contact*. Finally, the draft TMDL shows fewer water quality standards violations and generally decreased FC bacteria counts below Pullman and above Colfax, but high bacteria counts in Colfax.

During the conference call we were told by Ecology staff to cite the information at the bottom of page one of the information provided on the Eastern Washington Phase II Municipal Stormwater Permit proposed modifications. This statement reads:

In addition to the proposed changes we have identified, Ecology is interested in reviewing proposals that would reduce costs of permit compliance including, but not limited to, extending interim deadlines in the permit.

Since the proposals are not limited to extending interim deadlines in the permit, we would like to request a two-year extension from 2012 to 2014 for the city of Pullman based upon the environmental facts I have noted in this letter. Should you choose to grant this request, it will have a substantial positive benefit for Pullman because we will suspend our stormwater utility charges for two years. The following shows savings for selected businesses and organizations:

<u>BUSINESS/ORGANIZATION</u>	<u>YEAR-ONE SAVINGS</u>	<u>YEAR-TWO SAVINGS</u>
Washington State University	\$119,016	\$198,360
Pullman School District	\$ 14,508	\$ 24,180
Schweitzer Engineering Labs	\$ 11,736	\$ 19,560
Pullman Regional Hospital	\$ 3,312	\$ 5,520
Living Faith Fellowship Church	\$ 2,988	\$ 4,980
Shopko	\$ 2,700	\$ 4,500
Ridge Pointe H.O.A.	\$ 1,980	\$ 3,300
Safeway	\$ 1,944	\$ 3,240
Chipman & Taylor (G.M.)	\$ 1,944	\$ 3,240
Calvary Christian Center	\$ 1,620	\$ 2,700
Ace Hardware	\$ 1,368	\$ 2,280
Dissmores IGA	\$ 1,260	\$ 2,100
Jess Ford	\$ 900	\$ 1,500
Wysup Motors	\$ 900	\$ 1,500
Port of Whitman	\$ 756	\$ 1,260

Should the Senate bill be passed in which funding is provided to WSU to meet stormwater costs, the figures shown would be an additional avoided cost to WSU. For its

part, the city of Pullman would avoid paying \$9,144 in year one and \$15,240 in year two. The Pullman-Moscow Regional Airport would avoid paying \$7,920 in year one and \$13,200 in year two.

It also needs to be emphasized that Pullman did not levy a stormwater utility until year three of the five-year permit. Even in levying our stormwater utility we reduced the originally proposed Equivalent Residential Unit (ERU) rate of \$7 per month to \$3 per month. Thus we cut our proposed charges from the original consulting firm, Otak, Inc., recommended gap analysis requirements by more than half. We will also have to continue augmenting stormwater costs from the street funds which means fewer streets in desperate need of repair will be paved.

Thank you for considering this request for a two-year delay in the implementation of the stormwater permit for Pullman. Once again, we pledge to maintain our current stormwater efforts if you grant our request.

Sincerely,

A handwritten signature in cursive script that reads "John Sherman".

John Sherman  
City Supervisor

